

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOHN DOE I, *et al.*

Plaintiffs,

-against-

05-CV-740

RICHARD A. BUCCI, *et al.*

Defendants.

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THOMAS J. McAVOY,  
Senior United States District Judge

ORDER TO SHOW CAUSE

Plaintiffs appear by way of application for an order to show cause seeking (1) an expedited hearing on their claim that Binghamton City Ordinance 05-26 is unconstitutional and, therefore, defendants should be preliminarily enjoined from enforcing the ordinance; (2) permission to proceed anonymously in this case; and (3) class certification. Plaintiffs also seek a temporary restraining order prohibiting Defendants from revealing Plaintiffs' identities.

Plaintiffs' application for an order to show cause fails to comply with Local Rule 7.1(e) ("[A] motion brought by Order to Show Cause must include an affidavit clearly and specifically showing good and sufficient cause why the standard Notice of Motion

procedure cannot be used. Reasonable advance notice of the application for an Order to Show Cause must be given to the other parties, except in those circumstances where the movant can demonstrate, in a detailed and specific affidavit, good cause and substantial prejudice that would result from the requirement of reasonable notice.") (emphasis added). Plaintiffs' application for a temporary restraining order fails to comply with Federal Rule of Civil Procedure 65(b) (1) & (2). Nevertheless, because the Plaintiffs' papers raise a serious question as to whether a constitutional violation is occurring, the Court finds sufficient reason to grant an expedited hearing on the question of whether the sought after preliminary injunction should issue.

**Now,** therefore, it is hereby

**ORDERED** that Defendants **shall show cause** on July 13, 2005 at 10::00 a.m. at the United States District Court for the Northern District of New York, Albany, New York, why a preliminary injunction should not issue prohibiting the enforcement of Binghamton City Ordinance 05-26; and it is further

**ORDERED** that Defendants shall electronically file and serve any papers in opposition to this application before midnight on June 26, 2005. All parties are advised that the Court may elect to determine the present application on the basis of the submissions alone and, therefore, Plaintiffs may file and serve any supplemental papers in support of its application for a preliminary

injunction by the end of business on June 20, 2005; and it is further

**ORDERED** that all parties shall file and serve additional briefs, limited to ten (10) pages in length, by the end of business June 27, 2005, addressing whether the Court should, or must, abstain in this matter under the doctrine enunciated in Younger v. Harris, 401 U.S. 37 (1971); and it is further

**ORDERED** that Plaintiffs' application for an expedited hearing on the issue of class certification is **denied**; and it is further

**ORDERED** that Plaintiffs' application to proceed anonymously is granted on a temporary basis pending further briefing on this issue, and the papers filed in support of the Order to Show Cause shall be sealed,<sup>1</sup> and Plaintiffs' counsel shall file, within three (3) days of this Order to Show Cause, redacted copies of these papers. Defendants shall respond to the motion using the chart of pseudonyms attached to Plaintiffs' counsels declaration; and it is further

**ORDERED** that Plaintiffs' application for a Temporary Restraining Order prohibiting Defendants from disclosing Plaintiffs' identities is denied with leave to renew upon proper papers; and it is further

**ORDERED** that service of this Order to Show Cause, and the

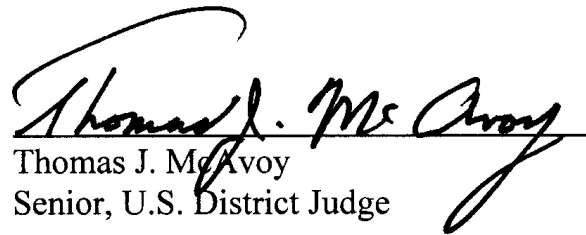
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<sup>1</sup> The Complaint uses pseudonyms so it need not be sealed.

papers upon which it is based, on the Defendants personally, or their counsels' offices, by end of business on June 16, 2005, shall be deemed good and sufficient service.

**IT IS SO ORDERED**

DATED: June 14, 2005

  
Thomas J. McAvoy  
Senior, U.S. District Judge